

UNITED STATES DISTRICT COURT
for the

Western District of North Carolina

United States of America)
v.)
Bobby Eugene Livingston) Case No: 3:02CR236-1
Date of Previous Judgment: 10/26/04) USM No: 19185-058
(Use Date of Last Amended Judgment if Applicable)) Julia Grace Mimms
Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____ Amended Offense Level: _____
Criminal History Category: _____ Criminal History Category: _____
Previous Guideline Range: _____ to _____ months Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): The defendant is eligible for a two-level reduction in offense level pursuant to Amendment 706 (Retroactive Crack Cocaine Amendment). However, since he was found to be a career offender as to count one, he is not eligible for a sentence reduction.

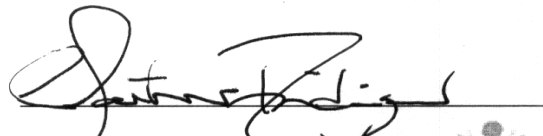
III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated 10/26/04 shall remain in effect.

IT IS SO ORDERED.

Order Date: December 19, 2008

Effective Date: _____
(if different from order date)


Martin Reidinger
United States District Judge

